at the Executive Office for Immigration Review (EOIR or Agency), either as an employee or as a volunteer, must include a signed affirmation from the applicant that he or she is a citizen of the United States of America. Upon the Agency's request, the applicant must document United States citizenship.

(2) The Director of EOIR may, by explicit written determination and to the extent permitted by law, authorize the appointment of an alien to an Agency position when necessary to accomplish the work of EOIR.

Dated: May 23, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–13586 Filed 6–2–95; 8:45 am]

BILLING CODE 4410–01–M

8 CFR Part 3

[AG Order No. 1971–95]

Executive Office for Immigration Review; Board of Immigration Appeals; Expansion of the Board

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule expands the Board of Immigration Appeals to twelve permanent members, including eleven Board Members and a Chairman. The rule also retains the authority of the Director of the Executive Office for Immigration Review to designate Immigration Judges as temporary additional Board Members.

EFFECTIVE DATE: This final rule is effective June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Margaret Philbin, Associate Counsel to the Director, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION: The final rule provides for an expansion of the Board of Immigration Appeals to a twelve-member permanent Board. This is necessary because of the Board's greatly increased caseload, which has more than quadrupled over the past decade. To maintain an effective, efficient system of appellate adjudication, it has become necessary to increase the number of Board Members. This change will allow the Board to sit in four permanent member panels of three. This will further enhance effective, efficient adjudications while provide for en banc review in appropriate cases.

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b). The Attorney General has determined that this rule is not a significant regulatory action under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary because this rule relates to agency organization and management.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Aliens.

For the reasons set forth in the preamble, 8 CFR part 3 is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Subpart A—Board of Immigration Appeals

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. Section 3.1, paragraph (a)(1), is revised to read as follows:

§ 3.1 General authorities.

(a)(1) *Organization.* There shall be in the Department of Justice a Board of Immigration Appeals, subject to the general supervision of the Director, Executive Office for Immigration Review. The Board shall consist of a Chairman and eleven other members. The Board Members shall exercise their independent judgment and discretion in the cases coming before the Board. A majority of the permanent Board Members shall constitute a quorum of the Board sitting en banc. A vacancy, or the absence or unavailability of a Board Member, shall not impair the right of the remaining members to exercise all the powers of the Board. The Director may in his discretion designate Immigration Judges to act as temporary, additional Board Members for whatever time the Director deems necessary. The Chairman may divide the Board into three-member panels and designate a presiding member of each panel. The Chairman may from time to time make changes in the composition of such panels and of presiding members. Each panel shall be empowered to review cases by majority vote. A majority of the number of Board Members authorized to constitute a panel shall constitute a quorum for such panel. Each panel may exercise the appropriate authority of the Board as set out in part 3 that is necessary for the adjudication of cases before it. The permanent Board may, by majority vote on its own motion or by direction of the Chairman, consider any case en banc or reconsider en banc any case decided by a panel. By majority vote of the permanent Board, decisions of the Board shall be designated to serve as precedents pursuant to paragraph (g) of this section. There shall also be attached to the Board such number of attorneys and other employees as the Deputy Attorney General, upon recommendation of the Director, shall from time to time direct.

* * * * *

Dated: May 25, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–13582 Filed 6–2–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 440

[Docket No. EE-RM–94–401]

Weatherization Assistance Program for Low-Income Persons

AGENCY: Department of Energy.

ACTION: Interim final rule.

SUMMARY: The Department of Energy (DOE) is today publishing an interim final rule amending the regulations for the Weatherization Assistance Program for Low-Income Persons to change the formula used to distribute funds among the States under the Program. DOE issued the Notice of Proposed Rulemaking pursuant to the Conference Report on the Department of Interior and Related Agencies Appropriations Act of 1995 which accompanied Pub. L.

103–332 and premised the implementation of the proposed formula on specific language contained in that report. DOE is issuing this document as an interim final rule because of Congressional budgetary issues that have surfaced since the Notice of Proposed Rulemaking was published on January 23, 1995. The Department has made appropriate revisions in this interim final rule to accommodate possible rescissions to Fiscal Year 1995 appropriations to the Program.

The new formula increases the overall equity, among the States, of fund allocations under the program regulations, while at the same time preserving existing State program capabilities. The principal criteria in the formula reflect: Number of low-income households by State, climatic conditions using weather data by State, and residential energy expenditures by low-income households by State.

EFFECTIVE DATE: July 5, 1995.

FOR FURTHER INFORMATION CONTACT: Greg Reamy, Weatherization Assistance Program Division, U.S. Department of Energy, Mail Stop EE–532, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 426–1698.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Department of Energy (DOE or Department) is amending its regulations to change the formula used to distribute funds for the Weatherization Assistance Program for Low-Income Persons Program, which is authorized by Title IV of the Energy Conservation and Production Act (Act) 42 U.S.C. 6861 *et seq.* and is codified in 10 CFR part 440. The Program is also subject to the DOE general financial assistance regulations in 10 CFR part 600.

Since 1976, the Department of Energy has operated one of the nation's largest energy conservation programs—the Weatherization Assistance Program. The goal of the Program is to reduce heating and cooling costs for low-income families. The program improves the energy efficiency of the homes of low-income families, reducing their energy consumption, lowering their fuel bills, increasing the comfort of the homes, and insuring health and safety. This Program is critical to low-income populations who are particularly vulnerable—the elderly, persons with disabilities, and children.

The Program is administered by all 50 States, the District of Columbia, and certain Indian tribes, which in turn fund nearly 1,200 local agencies to provide weatherization services to eligible low-income persons. Based on priorities identified by energy audits conducted by local agencies and other weatherization service providers, energy efficiency measures are installed, including modifications to the heating and cooling systems. Consistent with the Act, the Program focuses particularly on the housing of low-income children, elderly, and disabled persons. 42 U.S.C. 6861(b).

The formula increases the overall equity, among the States, of fund allocations under the Program regulations, while at the same time preserving existing State program capabilities. The Department is taking this action based in part on the response to a Notice of Proposed Rulemaking (NOPR) published by DOE in the **Federal Register** on January 23, 1995, 60 FR 4480. In addition to accepting written comments on the NOPR, DOE held two public hearings to solicit oral testimony.

In the Conference Report on the Department of Interior and Related Agencies Appropriations Act, 1995, the conference committee stated that sufficient funds were being made available to permit DOE to revise the formula. H.R. Conf. Rep. No. 740, 103rd Cong., 2nd Sess. 50 (1994). The intent of the Congress was to provide warmer-weather States a greater share of the funding, while protecting the Program capacity developed over the years by colder-weather States. DOE believes that the formula in the interim final rule satisfies this intent and is consistent with the requirements of the Act.

The Act requires DOE to allocate funds to States based on the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors: (1) The number of dwelling units to be weatherized; (2) the climatic conditions in each State which may include annual degree days; (3) the various types of weatherization work to be done; and (4) other factors as determined by DOE, such as the cost of heating and cooling. 42 U.S.C. 6864(a).

In order to allocate funds under the old formula i.e., (the existing formula being revised today) each year, DOE applied the formula in old 10 CFR 440.10(b) to the amount of funds remaining after training and technical assistance funds were subtracted from the annual appropriation. The old formula established for each State a minimum base grant level of $100,000 (Alaska received an additional $100,000). The remaining available funds were allocated by a mathematical formula which took into account heating/cooling degree days, total residential energy use for space heating/cooling, the number of low-income owner-occupied dwelling units, and the number of low-income renter occupied dwelling units in the State. This basic formula had remained unchanged since 1977. Data used in the formula for weather, residential energy use, and population were however updated several times. The data for program year 1993 were updated to include the 1990 census data.

As revised today, the new formula includes three elements: The number of low-income households below 125 percent of the poverty level, giving equal weight to owners and renters; climatic conditions across the country using heating and cooling degree days; and residential energy expenditures per low-income household per State.

The new formula buffers States from serious losses in program capacity, while at the same time allowing warmer-States to gain the benefits of a new formula. Consistent with these two objectives, the formula implementation establishes a fixed base amount of funds for each State that is derived from the amount received for the fiscal year 1993, while remaining funds will be distributed pursuant to the formula. Fiscal year 1993 was used to fix the base amounts because it was the most recent available data when Congress passed the fiscal year 1995 appropriation.

II. Amendments to the Weatherization Assistance Program Formula and Discussion of Public Comments

This part of the Supplementary Information discusses, where appropriate, the proposed changes to the regulations, comments received pertaining to the proposed changes, and the DOE final action.

Section 440.3 Definitions

No comments were received on the definitions and without change the Department is finalizing the proposed amendments to § 440.3.

DOE amends this section by deleting the references to the old formula which are not a part of the new formula. The definitions deleted are: ''Number of owner-occupied units in the State''; ''number of low-income, renter-occupied dwelling units in the State''; ''percentage of total residential energy used for space cooling''; and ''percentage of total residential energy used for space heating''.

Additionally, several definitions are added to § 440.3 which describe the new criteria to be used in the new formula. DOE adds a definition of ''base allocation,'' as set forth in § 440.10(b)(1), which refers to the fixed base amount each State receives. That amount is

derived from each State's fiscal year 1993 allocation of funds.

DOE also adds definitions of ''program allocation'' and ''total program allocations.'' The former represents the amount of funds (base allocation plus formula allocation) to be distributed to each State. The latter refers to the annual appropriation less funds reserved for training and technical assistance.

Section 440.10(b) Allocation of Funds

DOE deletes the old formula in § 440.10(b) and replaces it with the new formula set forth in revised § 440.10(b). Paragraph (b)(1) of § 440.10 provides for a program allocation (PA) for each State consisting of two parts. The two parts are: (1) A fixed amount of money (derived from the State's FY 1993 allocation), which is referred to as a State's ''Base Allocation'' (BA) (See Table 1); and (2) an amount of money referred to as the ''Formula Allocation'' (FA), which is determined by application of the new formula.

As mentioned earlier, DOE held two public hearings on the NOPR. Ten of the eleven speakers offered testimony in support of the proposed formula. One speaker expressed concern over the source of weather data in the form of heating and cooling degree days which was addressed in the proposed formula, but not specifically in the data. Additionally, the Department received 9 written comments generally supporting the formula change. However, 2 of the 9 written comments, while generally supporting the formula change, expressed concern about current and future funding levels, including possible Congressional budgetary actions on fiscal year 1995 appropriations and their effect on implementation. These commenters reserved the right to withdraw their support if funding levels are revised. Two commenters was generally non-supportive of the change as proposed.

One comment proposed that all funds above the fiscal year 1993 program allocation be provided to those States that would gain under the proposed formula; no other State would receive additional funds until ''the previously disadvantaged States (i.e. warmer-weather States) achieve equity.'' Thereafter, the Program Allocation equation would be applied to all States. In making this proposal, however, the comment erroneously argues that colder-weather States would lose no money because they would remain at the current Base Allocation. In fact, limiting these States to their fiscal year 1993 base allocation would lower their program funds because they would not benefit from later higher increases in funding levels for the Program. DOE disagrees that the new formula ''assumes historic equity of the funding allocation'' since the new formula does shift a greater share of funds to warmer-weather States. The new formula embodies congressional intent of allowing for a more equitable apportionment of funds while protecting program capacity of any State. For these reasons, DOE does not believe that the formula implementation contained in the notice of proposed rulemaking should be modified as suggested by this commenter.

One comment questioned the appropriateness of multiplying F2 (climate) and F3 (energy expenditures). The comment argued that these factors are so similar that the outcome is similar to the old formula, presumably the squaring (or multiplying together) of degree days. Our analysis of weather and expenditure factors, however, indicates that there is not much similarity between these two factors; that is, the analysis indicated that the weather factor is not very indicative of energy expenditures. As a result, DOE concludes that these two factors represent two distinct elements contributing to the need for weatherization assistance by low-income households. Throughout its history, the Program has been concerned with both the need for energy generated by weather conditions and the importance of helping low-income households afford their energy bills. Adding these elements, as suggested by the comment, would reduce the relative importance of each in the new formula allocation.

The same comment expressed concern that the new formula does not protect program capacity developed over the years by colder-weather States. This comment contends that the new formula provides a greater share of funds to warmer-weather States and that the formula disproportionally affects the distribution of funds. The comment thus concludes that the new formula does not ''work if it requires a hold harmless clause to meet the intent of Congress.'' DOE notes here that the formula did not include a ''hold harmless clause,'' *per se.* Moreover, the proposed formula as a whole balances congressional intent of maintaining program capacity and apportioning funds more equitably among the States. Under the formula, no State loses more than one-half of one-percent of FY 1994 funds unless total program allocations fall below $220 million. All States gain when funds rise above this amount. Changing individual pieces of the formula would disrupt this balance. Likewise, although the base allocation could be changed, changing this element of the formula would alter the resulting overall balance.

One comment recommended including only cooling degree days (CDDs) associated with an unspecified level of extreme high temperatures and formulation of the formula so that no ''cold-weather'' State would have an ''energy factor'' less than one (1). The formula does not have an energy factor *per se.* Colder States, in fact, do have weather factors greater than one. When relatively lower formula shares result for colder-weather States, it is due to fewer low-income households or lower energy prices.

Another comment indicated dissatisfaction with the methods used by the National Oceanic and Atmospheric Administration (NOAA) to calculate heating and cooling degree days. However, the comment did not offer a viable alternative that could be readily adopted. DOE notes that this rule cannot govern NOAA calculations, but that it does provide a mechanism for updating the data for the formula factors, including weather data.

One comment recommended eliminating the energy expenditure factor to avoid ''taking into account the constant fluctuation in fuel prices.'' Energy expenditures are consumption multiplied by price. Review of recent changes in State energy prices, consumption, and resulting energy expenditures indicates that the impact of fluctuations in any of these factors on final State shares tends to be relatively small. In fact, because price and consumption changes in any given year are often partially offsetting, percentage changes in expenditures from year to year tend to be smaller than changes in consumption.

Another comment recommended that DOE phase in the formula over a five year period to correct for fluctuations in funding formula factors. This recommendation was based on the premise that it would take several years before it could be determined if the proposed formula needs to be adjusted. While there will be some fluctuation from year to year, the comment merely speculated that the degree of fluctuation warranted adding a complex adjustment to the formula. DOE agrees that there will be some fluctuation from year to year. However, DOE's analysis reveals no wide degree of fluctuation that would disrupt the Program. Thus, no change has been made in the implementation of the new formula. However, DOE will be monitoring the year to year fluctuations in the allocations. If these fluctuations are

significant and persistent, DOE should be able to identify whether a formula factor is the cause and would act to remedy the problem.

One comment suggested continuing to count the families in multi-family buildings as one-half a household. Although households in multi-family buildings tend to use less energy than households in single-family homes, these and other differences in energy use are reflected in the energy expenditure factor F3. Therefore, no change needs to be made.

Revised § 440.10(b) maintains the current capacity of States to deliver weatherization services and sustains the strong network developed for this purpose by minimizing the impact of the formula change on colder-weather States. Those States would otherwise face layoffs of weatherization crews that would severely restrict their ability to provide reasonable weatherization services to their low-income residents.

For all the reasons set forth above, DOE has made no substantive changes in the proposed § 440.10(b).

Summary of Revised Formula

An explanation of the revised allocated allocation formula is set forth below. This explanation is based on the summary provided in the notice of proposed rulemaking, with minor clarifying changes. The figures contained in Tables 1 through 5 are based on available data as of fiscal year 1995. Depending upon changes in data available thereafter, some of these figures may change periodically. See § 440.10(e) for further information pertaining to updates.

The program allocation is expressed mathematically as:

PA=BA+FA

Base Allocation

Table 1 presents the ''Base Allocation'' for each State.

TABLE 1.—''BASE ALLOCATION'' BY STATE

Alabama	1,636,000
Alaska	1,425,000
Arkansas	1,417,000
Arizona	760,000
California	4,404,000
Colorado	4,574,000
Connecticut	1,887,000
Delaware	409,000
District of Columbia	487,000
Florida	761,000
Georgia	1,844,000
Hawaii	120,000
Idaho	1,618,000
Illinois	10,717,000
Indiana	5,156,000
Iowa	4,032,000
Kansas	1,925,000
Kentucky	3,615,000
Louisiana	912,000
Maine	2,493,000
Maryland	1,963,000
Massachusetts	5,111,000
Michigan	12,346,000
Minnesota	8,342,000
Mississippi	1,094,000
Missouri	4,615,000
Montana	2,123,000
Nebraska	2,013,000
Nevada	586,000
New Hampshire	1,193,000
New Jersey	3,775,000
New Mexico	1,519,000
New York	15,302,000
North Carolina	2,853,000
North Dakota	2,105,000
Ohio	10,665,000
Oklahoma	1,846,000
Oregon	2,320,000
Pennsylvania	11,457,000
Rhode Island	878,000
South Carolina	1,130,000
South Dakota	1,561,000
Tennessee	3,218,000
Texas	2,999,000
Utah	1,692,000
Vermont	1,014,000
Virginia	2,970,000
Washington	3,775,000
West Virginia	2,573,000
Wisconsin	7,061,000
Wyoming	967,000
Total	171,258,000

Formula Allocation

The amount of total Formula Allocations (the amount which will be distributed among States based on the new formula) is calculated by subtracting total Base Allocations ($171,258,000) from the total Program Allocations. For example, if the amount of total Program Allocations is $200,000,000, the amount of total Formula Allocations would be $28,742,000 ($200,000,000–$171,258,000).

The Formula Allocation for each State is calculated by multiplying the total amount of Formula Allocations by each State's Formula Share, which is determined by the new formula.

Formula Factors

The new formula is composed of three factors for each State. The first factor (F1) is the population factor. The next factor (F2) represents the climatic conditions in each State, derived from heating and cooling degree days. The last factor (F3) is residential energy expenditures by low-income households in each State.

F1 Population Factor

The first factor in the new formula is the population factor. This is represented by the share of the Nation's low-income households in each State expressed as a percentage. Unlike the old formula, the new formula gives equal weight to owners and renters. The number of low-income households was obtained from a special run by the Bureau of the Census for the Department of Energy, referenced as ''Households at 125% or less, Special Tab #54, Census Bureau''.

F1—State Population Factor

$$F1 = \frac{\text{Total Number of Low-Income Households in the State}}{\text{Total Number of Low-Income Households Nationwide}} \times 100$$

Table 2 presents the number of low-income households and the population factor (F1) for each State.

Table Explanation

Column A—State Name.

Column B—Number of Low-Income Households per State.

Column C—State Population Factor (F1)—is calculated by dividing the number of low-income households in a given State (Column B) by the national total (16,231,250—shown at the bottom of the table) and multiplied by 100.

TABLE 2.—LOW-INCOME HOUSEHOLDS BY STATE

State	Number of low-income households	Percent of national low-income households (F1)
A	B	C
Alabama	386,525	2.3814
Alaska	21,729	0.1339
Arizona	261,161	1.6090
Arkansas	240,155	1.4796
California	1,525,061	9.3958
Colorado	206,052	1.2695
Connecticut	120,483	0.7423
Delaware	31,028	0.1912
District of Columbia	46,438	0.2861
Florida	879,786	5.4203
Georgia	471,834	2.9069
Hawaii	40,856	0.2517
Idaho	69,204	0.4264
Illinois	657,508	4.0509
Indiana	327,581	2.0182
Iowa	184,021	1.1337
Kansas	163,891	1.0097
Kentucky	357,665	2.2036
Louisiana	442,320	2.7251
Maine	80,276	0.4946
Maryland	196,788	1.2124
Massachusetts	313,297	1.9302
Michigan	598,427	3.6869
Minnesota	247,149	1.5227
Mississippi	294,611	1.8151
Missouri	377,864	2.3280
Montana	68,456	0.4218
Nebraska	104,707	0.6451
Nevada	64,869	0.3997
New Hampshire	43,406	0.2674
New Jersey	303,328	1.8688
New Mexico	135,642	0.8357
New York	1,138,016	7.0113
North Carolina	489,172	3.0138
North Dakota	51,103	0.3148
Ohio	705,646	4.3475
Oklahoma	284,883	1.7552
Oregon	191,508	1.1799
Pennsylvania	725,124	4.4675
Rhode Island	57,155	0.3521
South Carolina	274,749	1.6927
South Dakota	56,917	0.3507
Tennessee	418,703	2.5796
Texas	1,345,471	8.2894
Utah	88,775	0.5469
Vermont	32,563	0.2006
Virginia	333,824	2.0567
Washington	280,943	1.7309
West Virginia	184,759	1.1383
Wisconsin	279,527	1.7222
Wyoming	30,294	0.1866
National Total	16,231,250	100

F2 Climate Factor

The second factor, climatic conditions, is obtained by adding the heating and cooling degree days for each State, treating the energy needed for heating and cooling proportionately.

The new formula uses (as did the old formula) the thirty year averages of heating degree days (HDD) and cooling degree days (CDD) as reported by the National Oceanic and Atmospheric Administration (NOAA) to account for climatic conditions. Heating and cooling consumption data were obtained from Table 28 of the Energy Information Administration's (EIA) Household Energy Consumption and Expenditures 1990.

State Climate Factor

F2=HDD State Ratio+CDD State Ratio

HDD and CDD Ratios

State HDD Ratio

$$\text{State HDD Ratio} = \frac{\text{State HDD}}{\text{National Median HDD}}$$

State CDD Ratio

$$\text{State CDD Ratio} = \frac{\text{State CDD}}{\text{National Median CDD}} \times 0.1$$

where

$$\frac{\text{Cooling Consumption (.49 Quadrillion Btu)}}{\text{Heating Consumption (4.79 Quadrillion Btu)}} = 0.1$$

National heating consumption equals 4.79 quadrillion Btu and air conditioning (cooling) consumption equals .49 quadrillion Btu. Cooling consumption divided by heating consumption rounds to 0.1. The ratio of cooling to heating energy consumption reflects the fact that nationally households use, on average, one tenth as much energy for cooling as for heating. This ratio is reflected in the old allocation formula. National data are used because of the absence of complete State-specific data.

In order to account for the variation in weather in a simple but equitable manner, DOE compares each State's climate to the national median. Each State's HDD and CDD is divided by the series' median value. Using the median as the denominator ensures that half of the States would fall above 1 and half would fall below 1. A State HDD ratio (HDD divided by the median) greater than 1 indicates a State with relatively cold winters, while a value greater than 1 for a State's CDD ratio indicates a State with a relatively warmer summer. To find the median of any odd series of numbers, the series is arranged in ascending order and the value that occurs in the middle of the series is chosen. The series relevant to F2 is odd because it consists of the 50 States and the District of Columbia. The median value occurs at the 26th observation (State). The median was chosen, rather than the mean, because of its characteristic of being ''insensitive'' to extreme values. States like Alaska and Florida tend to skew or pull the average towards one extreme or another. In calculating the heating and cooling ratios the old formula multiplied each State's HDD's by the national space heating consumption and its CDD's by the national air conditioning (cooling) consumption. The new formula simplifies this calculation by combining these two numbers into one by dividing cooling consumption by heating consumption (as reported in Table 28 of the Household Energy Consumption and Expenditures 1990). Each State's CDD ratio is multiplied by this one number (which rounds to 0.1). The final climate factor for each State is then the sum of the HDD and CDD ratios.

Table 3 presents the data used to calculate the climate factor (F2) for each State.

Table Explanation

Column A—State Name.

Column B—State heating degree days (HDD) as reported by the NOAA.

Column C—State HDD Ratio, calculated by dividing each State's HDD by the national median (5,429.9—as shown on the bottom of Table 2).

Column D—State cooling degree days (CDD) as reported by the NOAA.

Column E—State CDD divided by the national median (867.3—as shown on the bottom of Table 2).

Column F—State CDD Ratio, calculated by multiplying Column E by the ratio of cooling consumption to heating consumption, which is 0.1.

Column G—State Climate Factor (F2), calculated by summing each State's HDD and CDD ratios.

TABLE 3.—WEATHER DATA BY STATE

State	Heating degree days	HDD ratio	Cooling degree days	CDD divided by the median	CDD ratio	Climate factor (F2)
A	B	C	D	E	F	G
Alabama	2,853.8	0.526	1,855.9	2.140	0.214	0.740
Alaska	11,475.2	2.113	1.9	0.002	0.000	2.114
Arizona	2,232.6	0.411	2,695.4	3.108	0.311	0.722
Arkansas	3,365.0	0.620	1,801.2	2.077	0.208	0.827
California	2,663.3	0.490	824.4	0.951	0.095	0.586
Colorado	7,264.0	1.338	280.4	0.323	0.032	1.370
Connecticut	6,122.4	1.128	526.6	0.607	0.061	1.188
Delaware	4,741.7	0.873	1,034.4	1.193	0.119	0.993
District of Columbia	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Florida	715.6	0.132	3,365.1	3.880	0.388	0.520
Georgia	2,842.0	0.523	1,705.7	1.967	0.197	0.720
Hawaii	0.0	0.000	3,528.0	4.068	0.407	0.407
Idaho	6,960.0	1.282	434.9	0.501	0.050	1.332
Illinois	6,254.3	1.152	894.3	1.031	0.103	1.255
Indiana	5,906.8	1.088	891.7	1.028	0.103	1.191
Iowa	6,894.6	1.270	867.3	1.000	0.100	1.370
Kansas	4,990.9	0.919	1,490.4	1.718	0.172	1.091

TABLE 3.—WEATHER DATA BY STATE—Continued

State	Heating degree days	HDD ratio	Cooling degree days	CDD divided by the median	CDD ratio	Climate factor (F2)
A	B	C	D	E	F	G
Kentucky	4,566.8	0.841	1,174.4	1.354	0.135	0.976
Louisiana	1,826.1	0.336	2,550.0	2.940	0.294	0.630
Maine	8,069.2	1.486	215.6	0.249	0.025	1.511
Maryland	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Massachusetts	6,404.5	1.179	434.6	0.501	0.050	1.230
Michigan	6,837.5	1.259	565.7	0.652	0.065	1.324
Minnesota	8,687.0	1.600	487.3	0.562	0.056	1.656
Mississippi	2,549.5	0.470	2,094.4	2.415	0.241	0.711
Missouri	5,127.4	0.944	1,282.2	1.478	0.148	1.092
Montana	8,144.8	1.500	259.4	0.299	0.030	1.530
Nebraska	6,412.3	1.181	1,052.0	1.213	0.121	1.302
Nevada	4,260.1	0.785	1,572.0	1.813	0.181	0.966
New Hampshire	7,594.6	1.399	289.4	0.334	0.033	1.432
New Jersey	5,429.9	1.000	774.6	0.893	0.089	1.089
New Mexico	4,714.2	0.868	890.2	1.026	0.103	0.971
New York	5,960.8	1.098	641.4	0.740	0.074	1.172
North Carolina	3,492.2	0.643	1,366.3	1.575	0.158	0.801
North Dakota	9,382.8	1.728	471.7	0.544	0.054	1.782
Ohio	5,932.2	1.093	740.2	0.853	0.085	1.178
Oklahoma	3,593.3	0.662	1,941.6	2.239	0.224	0.886
Oregon	5,228.6	0.963	207.0	0.239	0.024	0.987
Pennsylvania	5,920.7	1.090	659.2	0.760	0.076	1.166
Rhode Island	5,942.0	1.094	457.2	0.527	0.053	1.147
South Carolina	2,768.2	0.510	1,787.0	2.060	0.206	0.716
South Dakota	7,613.7	1.402	804.6	0.928	0.093	1.495
Tennessee	4,005.8	0.738	1,337.5	1.542	0.154	0.892
Texas	2,039.7	0.376	2,623.2	3.025	0.302	0.678
Utah	6,451.3	1.188	694.7	0.801	0.080	1.268
Vermont	7,970.9	1.468	280.5	0.323	0.032	1.500
Virginia	4,402.4	0.811	1,052.4	1.213	0.121	0.932
Washington	5,636.0	1.038	174.9	0.202	0.020	1.058
West Virginia	5,271.5	0.971	766.5	0.884	0.088	1.059
Wisconsin	7,679.2	1.414	502.5	0.579	0.058	1.472
Wyoming	8,081.3	1.488	308.5	0.356	0.036	1.524
Median	5,429.9	.....	867.3	.....	.....	.....

F3 Residential Energy Expenditure Factor

The final factor, residential energy expenditures by low-income households was determined to be the closest approximation, given available data, of the financial burden to low-income households of energy use. Based on the same reasoning as discussed for the climate factor, the national median is used to calculate the State residential energy expenditure factors.

State Residential Energy Expenditure Factor

$$F3 = \frac{\text{State Low-Income Household Energy Expenditures}}{\text{National Median Low-Income Household Energy Expenditures}}$$

Due to the lack of State specific data on residential energy expenditures by low-income households, an estimate is calculated based on the published data that is available. Specifically, available residential energy expenditures data at the State level does not distinguish between low-income households and the overall population. Information on residential energy expenditures by low-income households is available at the Census division level. The nine Census divisions including the States contained therein are shown below. Comparing each State's average household residential energy expenditures with the average household residential energy expenditures at its Census division level provides a means of allocating the Census division low-income residential energy expenditures to each State within that division.

Census division	State abbreviations
Northeast (NE)	CT, MA, ME, NH, RI, VT
Mid-Atlantic (MA)	NJ, NY, PA
South Atlantic (SA)	DC, DE, MD, VA, WV, FL, GA, SC, NC
East North Central (ENC).	IL, IN, MI, OH, WI
East South Central (ESC).	AL, KY, MS, TN
West North Central (WNC).	IA, KS, MN, MO, ND, NE, SD
West South Central (WSC).	AR, LA, OK, TX
Mountain (MN)	AZ, CO, ID, MT, NM, NV, UT, WY
Pacific (PAC)	AK, CA, HI, OR, WA

Table 4, set forth below, presents the data used to calculate the residential energy expenditures factor for each State.

Table Explanation

Column A—State Abbreviation.

Column B—Census Division Abbreviation.

Column C—Residential Energy Expenditures by State (State EE) is published in the EIA's State Energy Price and Expenditure Report 1991 (SEPER). Data is expressed in millions of dollars.

Column D—Residential Energy Expenditures by Census division (Div EE) is the sum of the State data in Column C for each Census division. Data is expressed in millions of dollars.

Column E—Number of Households per State (State #HH) was obtained from the Bureau of the Census' U.S. Summary of General Housing Characteristics, 1990 Census.

Column F—Number of Households per Census division (Division #HH) is the sum of the State data in Column E for each Census division.

Column G—Residential Energy Expenditures per Low-Income Household for each State's Census division (Division EE/#LIHH) is published in the EIA's Household Energy Consumption and Expenditures 1990—Supplement: Regional.

Column H—The ratio of each State's Residential Energy Expenditures per Household (State EE/#HH) over the Residential Energy Expenditures per Household for each State's Census division (Division EE/#HH) is calculated as follows:

$$\text{Column H} = \frac{\text{Column C} \ / \ \text{Column E}}{\text{Column D} \ / \ \text{Column F}}$$

Column I—Residential Energy Expenditures per Low-Income Household by State (State EE/#LIHH) is calculated as follows:

Column I = Column G × Column H

Column J—''Residential Energy Expenditure Factor (F3)'' is calculated by dividing the estimate of residential energy expenditures per low-income households for each State by the national median ($998.52).

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS

State abbrev.	Census division	Residential energy expenditures (by state) (million $)	Residential energy expenditures (for census division) (million $)	Households (by state)	Households (for census division)	Residential energy expenditures per low-income household (for census division)	Ratio of state energy expenditure per household to division energy expenditure per household	Residential energy expenditures per low-income household (by state)	Expenditure factor (F3)
A	B	C	D	E	F	G	H	I	J
CT	NE	$2,024.20	$7,476.80	$1,230,479	$4,942,714	$1,150	$1.087	$1,250.62	$1.2565
MA	NE	3,264.10	7,476.80	2,247,110	4,942,714	1,150	0.960	1,104.30	1.1095
ME	NE	708.30	7,476.80	465,312	4,942,714	1,150	1.006	1,157.23	1.1627
NH	NE	596.90	7,476.80	411,186	4,942,714	1,150	0.960	1,103.60	1.1088
RI	NE	530.50	7,476.80	377,977	4,942,714	1,150	0.928	1,067.01	1.0720
VT	NE	352.80	7,476.80	210,650	4,942,714	1,150	1.107	1,273.25	1.2792
NJ	MA	4,114.50	19,378.30	2,794,711	13,929,999	1,157	1.058	1,224.47	1.2302
NY	MA	8,785.50	19,378.30	6,639,322	13,929,999	1,157	0.951	1,100.55	1.1057
DC	SA	222.40	20,804.00	249,634	16,503,063	988	0.707	698.24	0.7015
DE	SA	369.30	20,804.00	247,497	16,503,063	988	1.184	1,169.46	1.1749
MD	SA	2,309.50	20,804.00	1,748,991	16,503,063	988	1.047	1,034.92	1.0398
PA	MA	6,478.30	19,378.30	4,495,966	13,929,999	1,157	1.036	1,198.41	1.2040
VA	SA	2,920.60	20,804.00	2,291,830	16,503,063	988	1.011	998.77	1.0034
WV	SA	742.10	20,804.00	688,557	16,503,063	988	0.855	844.69	0.8486
AL	ESC	1,857.90	6,423.40	1,506,790	5,651,671	772	1.085	837.53	0.8415
FL	SA	6,144.50	20,804.00	5,134,869	16,503,063	988	0.949	937.85	0.9422
GA	SA	3,063.30	20,804.00	2,366,615	16,503,063	988	1.027	1,014.46	1.0192
KY	ESC	1,474.00	6,423.40	1,379,782	5,651,671	772	0.940	725.63	0.7290
MS	ESC	1,068.00	6,423.40	911,374	5,651,671	772	1.031	795.98	0.7997
NC	SA	3,390.90	20,804.00	2,517,026	16,503,063	988	1.069	1,055.85	1.0608
SC	SA	1,641.40	20,804.00	1,258,044	16,503,063	988	1.035	1,022.57	1.0274
TN	ESC	2,023.50	6,423.40	1,853,725	5,651,671	772	0.960	741.46	0.7449
IL	ENC	6,017.80	20,660.20	4,202,240	15,596,590	1,074	1.081	1,161.06	1.1665
IN	ENC	2,644.70	20,660.20	2,065,355	15,596,590	1,074	0.967	1,038.20	1.0431
MI	ENC	4,339.90	20,660.20	3,419,331	15,596,590	1,074	0.958	1,029.05	1.0339
MN	WNC	1,868.50	8,200.60	1,647,853	6,720,385	968	0.929	899.49	0.9037
OH	ENC	5,420.90	20,660.20	4,087,546	15,596,590	1,074	1.001	1,075.25	1.0803
WI	ENC	2,236.90	20,660.20	1,822,118	15,596,590	1,074	0.927	995.34	1.0000
AR	WSC	1,168.50	12,362.20	891,179	9,667,520	971	1.025	995.64	1.0003
LA	WSC	1,950.10	12,362.20	1,499,269	9,667,520	971	1.017	987.68	0.9923
NM	MT	545.40	5,476.10	542,709	5,033,336	888	0.924	820.25	0.8241
OK	WSC	1,441.60	12,362.20	1,206,135	9,667,520	971	0.935	907.59	0.9118

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS—Continued

State abbrev.	Census division	Residential energy expenditures (by state) (million $)	Residential energy expenditures (for census division) (million $)	Households (by state)	Households (for census division)	Residential energy expenditures per low-income household (for census division)	Ratio of state energy expenditure per household to division energy expenditure per household	Residential energy expenditures per low-income household (by state)	Expenditure factor (F3)
A	B	C	D	E	F	G	H	I	J
TX	WSC	7,802.00	12,362.20	6,070,937	9,667,520	971	1.005	975.86	0.9804
IA	WNC	1,355.70	8,200.60	1,064,325	6,720,385	968	1.044	1,010.45	1.0152
KS	WNC	1,138.90	8,200.60	944,726	6,720,385	968	0.988	956.32	0.9608
MO	WNC	2,539.40	8,200.60	1,961,206	6,720,385	968	1.061	1,027.15	1.0320
NE	WNC	680.70	8,200.60	602,363	6,720,385	968	0.926	896.44	0.9006
CO	MT	1,214.70	5,476.10	1,282,489	5,033,336	888	0.871	773.06	0.7767
MT	MT	321.50	5,476.10	306,163	5,033,336	888	0.965	857.09	0.8611
ND	WNC	303.20	8,200.60	240,878	6,720,385	968	1.032	998.52	1.0032
SD	WNC	314.20	8,200.60	259,034	6,720,385	968	0.994	962.22	0.9667
UT	MT	620.90	5,476.10	537,273	5,033,336	888	1.062	943.24	0.9477
WY	MT	194.40	5,476.10	168,839	5,033,336	888	1.058	939.77	0.9442
AZ	MT	1,694.00	5,476.10	1,368,843	5,033,336	888	1.137	1,010.08	1.0148
CA	PAC	10,642.80	13,958.20	10,381,206	13,902,132	676	1.021	690.25	0.6935
HI	PAC	273.20	13,958.20	356,267	13,902,132	676	0.764	516.30	0.5187
NV	MT	493.20	5,476.10	466,297	5,033,336	888	0.972	863.29	0.8673
AK	PAC	349.00	13,958.20	188,915	13,902,132	676	1.840	1,243.82	1.2496
ID	MT	392.00	5,476.10	360,723	5,033,336	888	0.999	886.97	0.8911
OR	PAC	1,013.60	13,958.20	1,103,313	13,902,132	676	0.915	618.54	0.6214
WA	PAC	1,679.60	13,958.20	1,872,431	13,902,132	676	0.893	603.95	0.6068
Total/Median								995.34	

The underlying assumption in the calculation of State residential energy expenditures per low-income household is that the relationship between a State's residential energy expenditures per household and its respective divisional residential energy expenditures per household is the same for its low-income population as it is for its general population. If State Y's average household spends 100 percent more on residential energy than the average household in its Census division, then it is assumed that the low-income households in State Y will also spend 100 percent more on residential energy than the average low-income household in its division. For example, assume State Y's residential energy expenditures per general household is $2,000 and the average residential energy expenditures per general household in its division is $1,000. If the average residential energy expenditures per low-income households for the division is $800, then the residential energy expenditures per low-income household for State Y would be $1,600.

Formula Share

The above factors are combined into a single formula by multiplying the percent of low-income households (F1) in each State by the climate factor (F2) and the residential energy expenditures factor (F3) for that State. For explanation purposes, the result of applying the formula to a given State will now be called the State's weight (SW), as follows:

SW=F1×F2×3.

These State-by-State calculations do not necessarily sum to one. As a result, each State's weight must be divided by the national total of each State's weight to obtain the State's Formula Share, as follows:

State's Formula Share=State's Weight/National Total.

Table 5 shows the three factors (from the previous tables) for each State along with each State's weight and Formula Share.

Table Explanation

Column A—State Name.

Column B—State's Population Factor (F1).

Column C—State's Climatic Factor (F2).

Column D—State's Residential Energy Expenditures Factor (F3).

Column E—State's Weight—F1×F2×F3.

Column F—State's Formula Share—State's weight (Column E) divided by the national total (the sum of Column E).

TABLE 5.—FORMULA FACTORS, WEIGHT AND FORMULA SHARE BY STATE

State	F1	F2	F3	Weight	Share
A	B	C	D	E	F
Alabama	2.381	0.740	0.841	1.482	0.0156
Alaska	0.134	2.114	1.250	0.354	0.0037
Arizona	1.609	0.722	1.015	1.179	0.0124
Arkansas	1.480	0.827	1.000	1.225	0.0129
California	9.396	0.586	0.693	3.815	0.0401
Colorado	1.269	1.370	0.777	1.351	0.0142
Connecticut	0.742	1.188	1.256	1.108	0.0117
Delaware	0.191	0.993	1.175	0.223	0.0023
District of Columbia	0.286	0.998	0.702	0.200	0.0021
Florida	5.420	0.520	0.942	2.655	0.0279
Georgia	2.907	0.720	1.019	2.133	0.0224
Hawaii	0.252	0.407	0.519	0.053	0.0006
Idaho	0.426	1.332	0.891	0.506	0.0053
Illinois	4.051	1.255	1.167	5.930	0.0624
Indiana	2.018	1.191	1.043	2.507	0.0264
Iowa	1.134	1.370	1.015	1.577	0.0166
Kansas	1.010	1.091	0.961	1.058	0.0111
Kentucky	2.204	0.976	0.729	1.569	0.0165
Louisiana	2.725	0.630	0.992	1.704	0.0179
Maine	0.495	1.511	1.163	0.869	0.0091
Maryland	1.212	0.998	1.040	1.258	0.0132
Massachusetts	1.930	1.230	1.109	2.633	0.0277
Michigan	3.687	1.324	1.034	5.049	0.0531
Minnesota	1.523	1.656	0.904	2.279	0.0240
Mississippi	1.815	0.711	0.800	1.032	0.0109
Missouri	2.328	1.092	1.032	2.624	0.0276
Montana	0.422	1.530	0.861	0.556	0.0058
Nebraska	0.645	1.302	0.901	0.757	0.0080
Nevada	0.400	0.966	0.867	0.335	0.0035
New Hampshire	0.267	1.432	1.109	0.425	0.0045
New Jersey	1.869	1.089	1.230	2.504	0.0263
New Mexico	0.836	0.971	0.824	0.669	0.0070
New York	7.011	1.172	1.106	9.084	0.0955
North Carolina	3.014	0.801	1.061	2.560	0.0269
North Dakota	0.315	1.782	1.003	0.563	0.0059
Ohio	4.347	1.178	1.080	5.532	0.0582
Oklahoma	1.755	0.886	0.912	1.417	0.0149
Oregon	1.180	0.987	0.621	0.724	0.0076
Pennsylvania	4.467	1.166	1.204	6.274	0.0660
Rhode Island	0.352	1.147	1.072	0.433	0.0046
South Carolina	1.693	0.716	1.027	1.245	0.0131
South Dakota	0.351	1.495	0.967	0.507	0.0053
Tennessee	2.580	0.892	0.745	1.714	0.0180
Texas	8.289	0.678	0.980	5.511	0.0580
Utah	0.547	1.268	0.948	0.657	0.0069
Vermont	0.201	1.500	1.279	0.385	0.0040
Virginia	2.057	0.932	1.003	1.924	0.0202
Washington	1.731	1.058	0.607	1.111	0.0117
West Virginia	1.138	1.059	0.849	1.023	0.0108
Wisconsin	1.722	1.472	1.000	2.535	0.0267
Wyoming	0.187	1.524	0.944	0.269	0.0028
National Total	.....	.....	.....	95.083	1.0000

Each State's share of the ''Formula Allocation'' is then calculated by multiplying the total ''Formula Allocation'' by each State's ''Formula Share''.

Section 440.10(c) Allocation of Funds

Two comments noted that since the NOPR was published on January 23, 1995, Congressional budgetary issues, which may affect the level of program funds available, have surfaced. In the NOPR, § 440.10(c) referred to fiscal year 1995 funding. At that time, the Department contemplated possible reductions in funding beginning after fiscal year 1995. Because of the possibility of reductions in fiscal year 1995 funding, this provision has been modified from the proposed language to clarify that the level of appropriations referred to in this section is that found in Pub. L. 103–332. Therefore, any increase in funds above the total program allocations level under Pub. L. 103–332 will be allocated according to the new formula. Should total program allocations for any fiscal year fall below the total program allocations under Pub. L. 103–332, then each State's program allocation shall be reduced from its allocated amount under Pub. L. 103–332 by the same percentage. For example, if total program allocations for a given year were 10 percent below the amount under Pub. L. 103–332, then each State's

program allocation would be 10 percent less than under Pub. L. 103–332. This approach distributes the effect of lower appropriations equitably.

Section 440.10(d) Allocation of Funds

In § 440.10(d), DOE clarifies the sources of data used in the new formula. All sources of data are publicly available. Since publication of the NOPR, DOE has obtained updated data on State energy expenditures and incorporated this new data in Tables 4 and 5 of this interim final rule.

Section 440.10(e) Allocation of Funds

Section 440.10(e) alerts States of possible impacts on their weatherization programs that may occur due to changes in data. For any given program year when changes occur, DOE will delay reallocations based on new data until the following year. This allows States to plan for anticipated shifts in funds and develop alternative strategies for minimizing the impact of such change.

Section 440.12 State Application

In § 440.12(b)(4) the term ''tentative allocation'' is deleted and ''program allocation'' is substituted to provide consistency with § 440.10. It should be noted that the original intent in using the term ''tentative allocation'', that is, retaining DOE's discretion to reallocate funds if they are not used on a timely basis, is preserved by substituting ''program allocation'' as it applies in § 440.10 (f) and (g). The term ''tentatively'' in § 440.14(b)(9)(vi) is deleted.

Section 440.14 State Plans

In § 440.14(b)(8)(i) the term ''tentative allocation'' has been retained. This term in context refers to State allocation (rather than DOE allocation) of funds among their subgrantees and the right of the State, after providing appropriate due process, to reduce or withdraw these funds for non-performance or other deficiencies.

III. Interim Final Effect

DOE has issued today's regulatory amendments as an interim final rule to reserve the possibility of reopening the record in light of the ultimate disposition of pending budgetary bills during the current session of Congress. The Department anticipates removing the interim final designation before the end of 1995.

IV. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a significant regulatory action under Executive Order 12866. Accordingly, today's action was not subject to review under the Executive Order by the Office of Management and Budget.

V. Review Under Executive Order 12778

Section 2 of E.O. 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulation to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, any effect on existing Federal law or regulation, and any retroactive effect; describes any administrative proceedings to be available to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's regulation meets the requirements of sections 2(a) and (b) of E.O. 12778.

VI. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or on the distribution of power among various levels of Government. If there are sufficient substantial direct effects, the Executive Order requires preparation of a federalism assessment to be used in decisions by senior policymakers in promulgating or implementing the regulation.

Today's regulatory action will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a federalism assessment is therefore unnecessary.

VII. Review Under the Regulatory Flexibility Act

The regulations were reviewed under the Regulatory Flexibility Act, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any proposed regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses and small government jurisdictions. DOE has concluded that the interim final rule will affect the States and local agencies operating weatherization programs, especially in the warmer-weather States which will receive more funding. The incremental effect of the final changes relates to the distribution of approximately $20 million. Thus this incremental effect when spread among all of the States and the District of Columbia will not have a significant impact on a substantial number of small entities. Therefore, DOE certifies that there will not be a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

VIII. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed on the public by today's interim final rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., or implementing regulations at 5 CFR part 1320.

IX. Review Under National Environmental Policy Act

The interim final rule provides the new formula which will be used to distribute funds among the States pursuant to the regulations for the Weatherization Assistance Program for Low-Income Persons. Over the years many warmer-weather States have maintained that the old formula overallocated funds to colder-weather States. The purpose of the new formula is to increase the overall equity among the States. The Department has determined that this interim final rule is covered under the Categorical Exclusion found at paragraph A6 of appendix A to subpart D, 10 CFR part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

X. Other Federal Agencies

DOE provided draft copies of the interim final rule to the Department of Health and Human Services Low-Income Home Energy Assistance Program and the Department of Agriculture Farmers Home Administration. No comments were received. DOE also provided a draft copy to the Administrator of the Environmental Protection Agency, pursuant to section 7 of the Federal Energy Administration Act, as amended, 15 U.S.C. 766. The Administrator did not submit any comment.

XI. The Catalog of Federal Domestic Assistance

The *Catalog of Federal Domestic Assistance* number for the

Weatherization Assistance Program for Low-Income Persons is 81.042.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy conservation, Grant programs-energy, Grant programs-housing and community development, Handicapped, Housing standards, Indians, Reporting and recordkeeping requirements, and Weather.

Issued in Washington, DC, on May 25, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby amends chapter II of title 10, Code of Federal Regulations, as set forth below:

PART 440—WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

1. The authority citation for part 440 is revised to read as follows:

Authority: 42 U.S.C. 6861–6871; 42 U.S.C. 7191.

2. In § 440.3, remove the definitions for ''Number of Low-Income, Owner Occupied Dwelling Units in the State''; ''Number of Low-Income, Renter-Occupied Dwelling Units in the State''; ''Percentage of Total Residential Energy Used for Space Cooling''; ''Percentage of Total Residential Energy Used for Space Heating''; and add the following definitions in alphabetical order to read as follows.

§ 440.3 Definitions.

* * * * *

Base Allocation means the fixed amount of funds for each State as set forth in § 440.10(b)(1).

* * * * *

Formula Allocation means the amount of funds for each State as calculated based on the formula in § 440.10(b)(3).

Formula Share means the percentage of the total formula allocation provided to each State as calculated in § 440.10 (b)(3).

* * * * *

Program Allocation means the base allocation plus formula allocation for each State.

* * * * *

Residential Energy Expenditures means the average annual cost of purchased residential energy, including the cost of renewable energy resources.

* * * * *

Total Program Allocations means the annual appropriation less funds reserved for training and technical assistance.

* * * * *

3. Section 440.10 is revised to read as follows:

§ 440.10 Allocation of funds.

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, upon annual application.

(b) Based on total program allocations at or above the amount of total program allocations under Pub. L. 103–332, DOE shall determine the program allocation for each State from available funds as follows:

(1) Allocate to each State a ''Base Allocation'' as listed in Table 1.

TABLE 1

Alabama	1,636,000
Alaska	1,425,000
Arkansas	1,417,000
Arizona	760,000
California	4,404,000
Colorado	4,574,000
Connecticut	1,887,000
Delaware	409,000
District of Columbia	487,000
Florida	761,000
Georgia	1,844,000
Hawaii	120,000
Idaho	1,618,000
Illinois	10,717,000
Indiana	5,156,000
Iowa	4,032,000
Kansas	1,925,000
Kentucky	3,615,000
Louisiana	912,000
Maine	2,493,000
Maryland	1,963,000
Massachusetts	5,111,000
Michigan	12,346,000
Minnesota	8,342,000
Mississippi	1,094,000
Missouri	4,615,000
Montana	2,123,000
Nebraska	2,013,000
Nevada	586,000
New Hampshire	1,193,000
New Jersey	3,775,000
New Mexico	1,519,000
New York	15,302,000
North Carolina	2,853,000
North Dakota	2,105,000
Ohio	10,665,000
Oklahoma	1,846,000
Oregon	2,320,000
Pennsylvania	11,457,000
Rhode Island	878,000
South Carolina	1,130,000
South Dakota	1,561,000
Tennessee	3,218,000
Texas	2,999,000
Utah	1,692,000
Vermont	1,014,000
Virginia	2,970,000
Washington	3,775,000
West Virginia	2,573,000
Wisconsin	7,061,000

TABLE 1—Continued

Wyoming	967,000
Total	171,258,000

(2) Subtract 171,258,000 from total program allocations.

(3) Calculate each State's formula share as follows:

(i) Divide the number of ''Low Income'' households in each State by the number of ''Low Income'' households in the United States and multiply by 100.

(ii) Divide the number of ''Heating Degree Days'' for each State by the median ''Heating Degree Days'' for all States.

(iii) Divide the number of ''Cooling Degree Days'' for each State by the median ''Cooling Degree Days'' for all States, then multiply by 0.1.

(iv) Calculate the sum of the two numbers from paragraph (b)(3)(ii) and (iii) of this section.

(v) Divide the residential energy expenditures for each State by the number of households in the State.

(vi) Divide the sum of the residential energy expenditures for the States in each Census division by the sum of the households for the States in that division.

(vii) Divide the quotient from paragraph (b)(3)(v) of this section by the quotient from paragraph (b)(3)(vi) of this section.

(viii) Multiply the quotient from paragraph (b)(3)(vii) of this section for each State by the residential energy expenditures per low-income household for its respective Census division.

(ix) Divide the product from paragraph (b)(3)(viii) of this section for each State by the median of the products of all States.

(x) Multiply the results for paragraph (b)(3)(i), (iv) and (ix) of this section for each State.

(xi) Divide the product in paragraph (b)(3)(x) of this section for each State by the sum of the products in paragraph (b)(3)(x) of this section for all States.

(4) Calculate each State's program allocation as follows:

(i) Multiply the remaining funds calculated in paragraph (b)(2) of this section by the formula share calculated in paragraph (b)(3)(xi) of this section,

(ii) Add the base allocation from paragraph (b)(1) of this section to the product of paragraph (b)(4)(i) of this section.

(c) Should total program allocations for any fiscal year fall below the total program allocations under Pub. L. 103-332, then each State's program

allocation shall be reduced from its allocated amount under Pub. L. 103–332 by the same percentage as total program allocations for the fiscal year fall below the total program allocations under Pub. L. 103–332.

(d) All data sources used in the development of the formula are publicly available. The relevant data is available from the Bureau of the Census, the Department of Energy's Energy Information Administration and the National Oceanic and Atmospheric Administration.

(e) Should updates to the data used in the formula become available in any fiscal year, these changes would be implemented in the formula in the following program year.

(f) DOE may reduce the program allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remains to be weatherized with the unexpended financial assistance.

(g) DOE may increase the program allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(h) The Support Office Director shall notify each State of the program allocation for which that State is eligible to apply.

4. Section 440.12 is amended by revising paragraph (b)(4) to read as follows:

§ 440.12 State applications.

* * * * *

(b) * * *

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded—

(i) With financial assistance previously obligated under this part, and

(ii) With the program allocation to the State;

* * * * *

5. Section 440.14 is amended by revising paragraph (b)(9)(vi) to read as follows:

§ 440.14 State plans.

* * * * *

(b) * * *

(9) * * *

(vi) The amount of weatherization grant funds allocated to the State under this part;

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[FR Doc. 95–13437 Filed 6–2–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc. The supplemental NADA provides for the use of 20 percent of lasalocid Type A medicated article in making Type C medicated feed used for chukar partridges as a coccidiostat.

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, is the sponsor of NADA 96–298, which currently provides for the use of a Type A medicated article HFV238 containing 20 percent (90.7 grams per pound (g/lb)) of lasalocid sodium activity in making 68- to 113-g per ton (g/t) Type C medicated feed for broiler or fryer chickens. The firm has filed a supplemental NADA that expands the use of the article to make a 113-g/t Type C medicated feed for chukar partridges for the prevention of coccidiosis caused by *Eimeria legionensis*. Approval is based in part on data and information in Public Master File (PMF) 5429 established under the Interregional Research Project No. 4 (IR–4), Northeastern Region, New York State College of Veterinary Medicine, Cornell University, Ithaca, NY 14853–6401.

The supplemental NADA is approved as of April 19, 1995, and the regulations are amended in § 558.311 (21 CFR 558.311) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Additionally, in a final rule published in the **Federal Register** of August 6, 1990 (55 FR 31827), that amended the regulations in § 558.311(e)(1), the agency failed to also revise § 558.311(b)(6) to remove reference to entry (xiii) in the table in paragraph (e)(1). This document corrects that error.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.311 is amended in paragraph (b)(6) by removing ''(e)(1)(xiii),'' by adding new paragraph (b)(7), and in the table in paragraph (e)(1) by adding new entry ''(xiii)'' to read as follows:

§ 558.311 Lasalocid.

* * * * *

(b) * * *

(7) 20 percent activity to No. 000004 for use in chukar partridges as in paragraph (e)(1)(xiii) of this section.

* * * * *

(e)(1) * * *